

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-HC-2127-D

UNITED STATES OF AMERICA,)
)
 Petitioner,)
)
 v.)
)
BARCLAY VAN BUREN,)
)
 Respondent.)

ORDER


Barclay Van Buren (“Van Buren” or “respondent”) is confined at the Federal Correctional Institution in Butner, North Carolina, awaiting a hearing on the government’s petition for his commitment pursuant to 18 U.S.C. § 4248 (“section 4248”) [D.E. 1]. On December 6, 2010, Van Buren filed a motion to dismiss the government’s petition for his commitment [D.E. 6]. On December 20, 2010, the government responded in opposition [D.E. 7].

On January 28, 2011, Van Buren filed a motion for a hearing to determine the merits of the commitment action [D.E. 8]. On February 2, 2011, the court entered a scheduling order [D.E. 9]. On May 6, 2011, the court granted the motion for hearing [D.E. 16]. The parties have commenced discovery, which is scheduled to close November 7, 2011.

In his motion to dismiss, Van Buren merely incorporates by reference the arguments made in United States v. Comstock, No. 5:06-HC-2195-BR (E.D.N.C.) [D.E. 12, 19]. In light of United States v. Comstock, 627 F.3d 513, 519–25 (4th Cir. 2010), the court rejects the arguments.

Accordingly, the court DENIES respondent’s motion to dismiss [D.E. 6].

SO ORDERED. This 21 day of September 2011.


JAMES C. DEVER III
United States District Judge